

Application No.: 09/963,513

Docket No.: 22135-00013-US

REMARKS***Introduction***

Receipt of the Office Action mailed August 27, 2003 is acknowledged. The present amendment amends claim 1 in formal regards to clarify the original language. No new matter has been added. Support for the instant amendment can be found throughout the specification and claims as originally filed, and in particular, in Fig 1. Entry of the amendment and favorable reconsideration are earnestly solicited. Claims 1-19 remain pending.

Claim Rejections – 35 USC § 103

Claims 1-4, 10-14 stand 16-19 are rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Kubo et al (Pat. No. 4,428,402) in view of Stall et al (Pat. No. 4,818,551). This rejection is respectfully traversed.

The Examiner is of the opinion that

Kubo et al teach a food casing comprising an inner hollow cavity, two ends, one end being tied off and turned into the cavity, an outer surface, the turned-in part extending approximately the entire length (Figure 1, #1-2), casing materials such as regenerated cellulose, starch, casein, polymers, synthetic materials, and nylon (column 4, lines 7-16), a lack of soaking, and placing the casing on a filling device to insert an edible filling (column 1, lines 41-50). Kubo et al do not teach an outer coating or impregnation, and liquid smoke. Stall et al teach a food casing impregnated with liquid smoke (column 1, lines 9-14). It would have been obvious to one of ordinary skill in the art to incorporate the liquid smoke of Stall et al into the invention of Kubo et al since both are directed to food casings, since Kubo et al already included various casing materials (column 4, lines 7-16), since liquid smoke was commonly applied to food casings, and since Stall et al teach that it provided uniform color, an smooth outer surface, coherency, a comparable pack ratio (column 3, lines 35-43).

However, Kubo teaches a shirred casing stick in which one end portion of the casing is pulled out and tied off by twisting. The twist is located away from the end of the casing.

Application No.: 09/963,513

Docket No.: 22135-00013-US

Namely, in Kubo, an outer end casing section is then turned inside out to cover the end closure and at least a part of the inner end casing section (col. 2, lines 20-27; see Fig. 1 and 2). At the same time it is pushed back into the hollow cavity of the stick (see Fig. 6 (A) to 6 (I)). This ensures that the end closure remains in position and does not open up.

The end closure is placed on the side of the casing where the end portion has been pulled out. Thus, when the casing of Kubo is put on a filling machine (see Fig. 3) the casing is not turned inside out. To the contrary, the instantly claimed casing is specifically adapted to be utilized in a situation where the entire casing is turned inside out. Kubo's clearly is not. If Kubo's casing were to be turned inside out and filled, the end closure of Kubo would end up inside the hollow portion in the sausage stuffing (which of course is completely undesirable; who would want to eat a sausage that has a closure within the edible portion?).

In the present invention, the end portion is pulled out, and the pulled out portion is turned and pushed back into the hollow cavity of the concertina (see claim 1). The end closure is then placed on an already turned section of the casing (see Fig. 1 of the present application). Thus, when the casing is filled, it is turned completely inside out, which in turn brings the food additive impregnated on the casing into contact with the stuffing. As such, in the final product, the end closure is located on the outside.

Stall does not provide for the deficiencies of Kubo. Stall discloses a shirred stick made from a non-reinforced cellulose casing impregnated with liquid smoke. Liquid smoke is one of the food additives mentioned in the present application. Stall's casing includes a specific structure of pleats. Stall does not provide any motivation to modify a casing stick in such a way that it can be turned inside out during the filling process, nor does Stall teach or suggest employing an end closure as instantly recited. The Examiner is therefore respectfully requested to reconsider and withdraw the outstanding rejection.

Claims 5-6 and 15 stand rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Kubo et al, in view of Stall et al, as applied above, and further in view of EP 0340776A1.

Application No.: 09/963,513

Docket No.: 22135-00013-US

This rejection is respectfully traversed. The Examiner acknowledges that Kubo et al and Stall et al do not teach a cross-linking agent such as caramel, or a material that reduced water solubility. However, while EP 0340776A1 teaches a food casing comprising caramel and shellac, this rejection fails for the same reasons as those identified above. Namely, it would not have been obvious to one of ordinary skill in the art to incorporate the caramel and shellac of EP 0340776A1 into a casing as recited in claim 1, since the proffered combination of Kubo and Stall do not teach or suggest the features being recited. This rejection is therefore believed to be improper and should be withdrawn.

Claim 7 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Kubo et al, in view of Stall et al, as applied above, and further in view of JP 51079748A. This rejection is respectfully traversed. While JP 51079748A teaches a food casing comprising polyvinyl pyrrolidone, JP 51079748A fail to provide for the deficiencies identified above with regard to Kubo and Stall. In fact, Kubo teaches various casing materials, e.g. regenerated cellulose, collagen, amylase, polyvinyl alcohol, alginate, casein, polyethylene, polystyrene, PVC, a VC/VDC-copolymer, polypropylene, polyester, and polyamide films. Neither Kubo nor Stall discloses coated or impregnated films. Stall teaches liquid smoke and the Japanese reference teaches PVP, but there was no motivation to combine the PVP and the liquid smoke to form a coating on a tubular casing. Indeed, even if the alleged combination were made, the invention being recited by Applicants is not taught or suggested for the reasons set forth *supra*.

Claim 8 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Kubo et al, in view of Stall et al, as applied above, and further in view of Nausedas (Pat. No. 4,551,370). This rejection is respectfully traversed.

The Examiner is apparently of the opinion that Figure 14, numeral 63 of Nausedas is a fill ring. However, Fig. 14, #63 is an end seal, not a fill ring. A fill ring is not a closure, but rather, a fill ring expands the casing to the desired diameter when it is drawn over a filling apparatus. This rejection is therefore improper and should be withdrawn.

Application No.: 09/963,513

Docket No.: 22135-00013-US

Claim 9 is rejected under 35 U.S.C. 103(a) as allegedly being unpatentable over Kubo et al, in view of Stall et al, as applied above, and further in view of Crevasse (Pat. No. 5,215,495). This rejection is respectfully traversed.

According to the PTO, Crevasse discloses a shirred casing stick surrounded by an outer packaging (Fig. 5, #44). While, Crevasse discloses a sleeve #42 (col. 4, lines. 21-35), which surrounds the shirred casing stick and which is made e.g. of ethylene vinylacetate copolymer (EVA), there is no teaching or suggestion in Crevasse of a casing that includes an end closure as instantly recited.

In view of the above, each of the presently pending claims in this application is believed to be in immediate condition for allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue.

Applicant hereby authorizes the Commissioner to please charge our Deposit Account No. 22-0185 in the amount of \$110.00 for a one month extension of time and any other fees deemed necessary, under Order No. 22135-00013-US from which the undersigned is authorized to draw.

Dated: December 29, 2003

Respectfully submitted,

By  44,100

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